

Form 300

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

Joseph Martin Thomas  
Debtor(s)

Barbara Noonan  
Movant(s),

v.

Joseph Martin Thomas  
Respondent(s).

Case No. 20-10334-TPA  
Chapter: 11

Related to Document No. 270

Hearing: 3/25/21 at 10:00 AM

ORDER SCHEDULING DATE FOR RESPONSE  
AND HEARING ON MOTION

**AND NOW**, this *The 18th of February, 2021*, a *Consent Motion For Relief From The Automatic Stay Pursuant To 11 U.S.C. §362* having been filed by Barbara Noonan at Doc. No. 270,

It is hereby **ORDERED, ADJUDGED and DECREED** that:


(1) Pursuant to *Bankruptcy Rule 7004*, Counsel for the Moving Party shall **IMMEDIATELY** serve a copy of this *Order* and the *Motion* upon all parties from whom relief is sought, their counsel, the U.S. Trustee and all those identified on the Certificate attached to the *Motion*. Counsel for the Moving Party shall then file a *Certificate of Service*. **Failure to properly serve the Motion or file the Certificate may result in the dismissal of the Motion.**

(2) **On or before March 8, 2021**, any *Response*, including a consent to the *Motion*, shall be filed with the Clerk's Office at U.S. Courthouse, Room B160, 17 South Park Row, Erie, PA 16501 and served on the counsel for the Moving Party.

(3) This *Motion* is scheduled for hearing on **March 25, 2021 at 10:00 AM** in <https://www.zoomgov.com/j/16021303488>, at which time the parties and/or their counsel shall appear and the Court will dispose of the *Motion*.

(4) If, after proper service, a Respondent fails to timely file a *Response*, the Court *may* determine that no hearing is required and accordingly enter the order by default. **To determine if a default order has been entered the Moving Party is directed to the Court's web site at <http://www.pawb.uscourts.gov> one day prior to the hearing. To view the calendar for Judge Thomas P. Agresti refer to the calendar section.** In the event a default order has been signed, the Moving Party shall **IMMEDIATELY** advise all affected parties. If a default order has not been entered, the parties will be **required** to appear at the hearing.

(5) A maximum of 10 minutes has been allotted to hear this matter. Should this matter require more than 10 minutes, the parties are required to so notify the Courtroom Deputy **IMMEDIATELY**. The Court may authorize parties or counsel of record to participate in the hearing by telephone per Judge Thomas P. Agresti's procedures on his website at <http://www.pawb.uscourts.gov/procedures>.

  
Thomas P. Agresti, Judge  
United States Bankruptcy Court

cm: Andrew Gornall, Esq.

**UNITED STATES BANKRUPTCY COURT  
WESTER DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11 Case
	:	
JOSEPH MARTIN THOMAS,	:	Case No. 20-10334 - TPA
Debtor	:	
	:	
BARBARA NOONAN,	:	
Movant	:	
	:	
Vs.	:	
	:	
JOSEPH MARTIN THOMAS,	:	
Respondent	:	

**CONSENT MOTION FOR RELIEF FROM THE AUTOMATIC STAY**  
**PURSUANT TO 11 U.S.C. §362**

Barbara Noonan (“Movant”) by and through her counsel, Gornall Law, LLC, and Joseph Martin Thomas, by and through his counsel, Michael P. Kruszewski, Esq., files this Consent Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. §362. In support of this Motion, the following is averred:

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §1334 and 11 U.S.C. §361, 362(d) and 365(a). Venue is proper in this court pursuant to 28 U.S.C. §1409.

This is a core proceeding pursuant to 28 U.S.C. §§1408 and 1409.

2. On May 6, 2020 the Debtor in the above captioned case, Joseph Martin Thomas (“Debtor”) filed a Voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Pennsylvania and relief was ordered thereon.

3. Prior to the commencement of the within Chapter 11 bankruptcy case, upon and information and belief, a potential state court cause of action(s) arose on behalf of Movant and against Debtor as it relates to certain Debtor's medical treatment of Movant (the "Prospective State Court Action").

4. In connection with the Prospective State Court Action, Movant desires to proceed in state court against the Debtor but limit recovery exclusively against available insurance proceeds. Movant does not intend to pursue any claims and/or seek any legal recovery in any manner as against Debtor in connection with the Prospective State Court Action.

5. Movant does not object in any manner to any discharge received by Debtor in connection with the subject bankruptcy case, and Debtor reserves any and all rights to object to the timeliness of Movant's claim(s) up until any deadlines as set forth in any forthcoming post-confirmation order(s).

6. Movant avers that sufficient cause exists to justify granting relief from the automatic stay so as to allow Movant to pursue the Prospective State Court Action against the medical insurance carrier of Debtor in advance of the completion of the within bankruptcy case.

7. The relief requested by this Motion is consented to by counsel for both Movant and Debtor.

8. In light of the above, Movant respectfully requests that the automatic stay contained in §362 of the Bankruptcy Code, 11 U.S.C. §362 be terminated.

WHEREFORE, the Parties pray that this Court issue an Order terminating the Automatic Stay and granting the following:

1. Relief from the Automatic Stay allowing Movant to proceed under applicable non-bankruptcy law to pursue the Prospective State Court Action, as described herein, exclusively against the medical insurance carrier for the Debtor.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States Code.
3. That the 14 day stay described in Bankruptcy Rule 4001(a)(3) be waived.
4. For such other relief as the Court deems proper.

Respectfully submitted,

By /s/ Andrew F. Gornall, Esq.  
Andrew F. Gornall, Esq.  
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By: /s/ Michael P. Kruszewski, Esq.  
Michael P. Kruszewski, Esq.  
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**UNITED STATES BANKRUPTCY COURT  
WESTER DISTRICT OF PENNSYLVANIA**

In re: : Chapter 11 Case  
: :  
JOSEPH MARTIN THOMAS, : Case No. 20-10334 - TPA  
Debtor :  
: :  
BARBARA NOONAN, :  
Movant :  
: :  
Vs. :  
: :  
JOSEPH MARTIN THOMAS, :  
Respondent :

**PROPOSED ORDER**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 2020, this matter having come  
before the Court upon Consent Motion seeking relief from the automatic stay pursuant to 11  
U.S.C. Section 362, and upon further consideration thereof and good cause appearing therefor,

IT IS hereby **ORDERED, ADJUDGED and DECREED** as follows:

1. The Consent Motion be and hereby is **GRANTED** in its entirety allowing Movant to proceed under applicable non-bankruptcy law to pursue the Prospective State Court Action, as described in the within Motion, against the Debtor but limit recovery exclusively against available insurance proceeds.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States Code.
3. That the 14 day stay described in Bankruptcy Rule 4001(a)(3) be waived.

4. For such other relief as the Court deems proper.

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Honorable Thomas P. Agresti  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
WESTER DISTRICT OF PENNSYLVANIA**

In re: : Chapter 11 Case  
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JOSEPH MARTIN THOMAS, : Case No. 20-10334 - TPA  
Debtor :   
:   
BARBARA NOONAN, :   
Movant :   
:   
Vs. :   
:   
JOSEPH MARTIN THOMAS, :   
Respondent :

**CERTIFICATE OF SERVICE**

I, Andrew F. Gornall, Esquire, hereby certify that a true and correct copy of the foregoing  
Consent Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. §362 has been served  
upon all interested parties via the electronic CM/ECF filing system.

Respectfully submitted,

By: /s/ Andrew F. Gornall, Esq.  
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